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Attorneys for Defendants
STX PAN OCEAN CO., LTD.,
PAN OCEAN SHIPPING and PANOBULK

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

TOKIO MARINE & FIRE INSURANCE
COMPANY,

Plaintiff,

vs.

M/V NIN, her engines, tackle, machinery,
appurtenances, etc., in rem; and STX PAN
OCEAN CO., LTD., PAN OCEAN SHIPPING,
PANOBULK, MARINE TERMINALS
CORPORATION, in personam,

Defendants.

Case No.: C 07 1698 MHP

**STIPULATION AND ~~PROPOSED~~
ORDER TO SET ASIDE DEFAULT**

The parties to this action, plaintiff TOKIO MARINE & FIRE INSURANCE COMPANY,
and defendants, STX PAN OCEAN CO., LTD., PAN OCEAN SHIPPING, PANOBULK, and
MARINE TERMINALS CORPORATION, by and through their counsel,

Hereby **STIPULATE AND AGREE** that the default entered on June 20, 2007, against
STX Pan Ocean Co., Ltd., may be set aside and that STX PAN OCEAN CO. LTD., PAN OCEAN
SHIPPING and PANOBULK shall have seven (7) days from the entry of the Order on this
Stipulation to file a responsive pleading to the Complaint and shall have fifteen (15) days from the
entry of the Order to make its Initial Disclosures.

STIPULATION AND [PROPOSED] ORDER TO SET ASIDE DEFAULT
Case no. C 07 1698 MHP

The basis for the request to set aside the default, as represented by the undersigned counsel for STX PAN OCEAN CO. LTD., PAN OCEAN SHIPPING and PANOBULK is that the failure on the part of these defendants to appear in this action and file a responsive pleading was the result of an administrative error. The claims representative handling this matter on behalf of these defendants believed that she had sent the file to a representative of their insurer for assignment to counsel for defense, but that file was not received by that representative prior to the entry of the default. As soon as it was learned that the default had been entered, this matter was assigned to counsel and steps were taken immediately to attempt to obtain agreement to set aside the default.

Counsel for STX PAN OCEAN CO. LTD., PAN OCEAN SHIPPING and PANOBULK respectfully submits that the default should be set aside under these circumstances because of the strong federal policy favoring deciding cases on their merits where the plaintiff will not be prejudiced by the setting aside of the default, the defendant has a meritorious defense and the failure to appear was not the result of culpable conduct on the part of the defendant. *See O'Conner v. State of Nevada*, 27 F.3d 357, 364 (9th Cir. 1994).

DATED: October 4, 2007

LAW OFFICES OF GEORGE W. NOWELL

/s/ Paul B. Arenas

By: _____

Paul B. Arenas
Attorneys for Plaintiff
TOKIO MARINE & FIRE INSURANCE
COMPANY

DATED: October 5, 2007

FLYNN, DELICH & WISE LLP

/s/ James B. Nebel

By: _____

James B. Nebel
Attorneys for Defendants
STX PAN OCEAN CO., LTD. PAN OCEAN
SHIPPING, PANOBULK

1 DATED: October 4, 2007

LAW OFFICES OF GARY A. ANGEL

2 /s/ Gary A. Angel

3 By: _____

4 Gary A. Angel

5 Attorneys for Defendant

MARINE TERMNALS CORPORATION

6 Good cause appearing,

7 **IT IS SO ORDERED.**



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